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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re

FOX ORTEGA ENTERPRISES, INC.,
dba PREMIER CRU,

Debtor.

Case No. 16-40050-WJL

Chapter 7

MICHAEL G. KASOLAS, Trustee,

Plaintiff,

Adversary Proceeding No.

**COMPLAINT TO AVOID AND
RECOVER PREFERENTIAL TRANSFER**

vs.

VERITAS IMPORTS,

Defendant.

Plaintiff Michael G. Kasolas (the “Trustee”), trustee of the above-captioned chapter 7
bankruptcy estate of Fox Ortega Enterprises, Inc., dba Premier Cru (“Debtor”), alleges as follows:

JURISDICTION AND VENUE

1. The Debtor filed its voluntary petition for relief under chapter 7 of the United
States Bankruptcy Code (Title 11 of the United States Code) on January 8, 2016 (the “Petition
Date”).

2. The Trustee is the duly appointed trustee of the Debtor’s chapter 7 bankruptcy case

(the “Case”).

3. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §1334(b) and 28 U.S.C. §157(a).

4. Venue is proper in this pursuant to 28 U.S.C. §1409(a).

5. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (F) and (O), which seeks relief under 11 U.S.C. §§ 547(a), 550(a) and 502(d), and under Rule 7001(1) of the Federal Rules of Bankruptcy Procedure.

6. The Trustee consents to the entry of a final order by the above-captioned Bankruptcy Court.

7. The Trustee and Defendant have entered into several tolling agreements tolling any and all application statutes of limitations. The most recent tolling agreement operates to toll the time to file a complaint through January 11, 2019.

FIRST CLAIM FOR RELIEF
Avoidance and Recovery of Preferential Transfer

8. Defendant Veritas Imports, (“Defendant”) is a wine distribution company doing business in Glendale, California.

9. Within 90 days of the Petition Date, Debtor made the following transfers (“Transfers”) as follows:

Community Bank of the Bay Account#	Date	Check No.	Amount
2956	10/30/2015	57811	\$1,920.00
2956	10/30/2015	57722	12,254.00
2956	11/18/2015	57920	6,678.00
			\$20,852.00

10. In exchange for the Transfers, the Debtor received wine valued at \$8,170.00.

11. The Debtor made the Transfers to or for the benefit of a creditor, namely the Defendant.

12. The Transfers were made on account of an antecedent debt.

13. The Transfers were made while the Debtor was insolvent.

14. The Transfers were made within 90 days of the Petition Date.

15. The Transfers enabled Defendant to receive more than it would have received if:
(a) the case was a case under chapter 7 of Title 11; (b) the Debtor had not made the Transfers; and
(c) Defendant received payment of such debt to the extent provided by the provisions of Title 11.

16. Defendant was the initial transferee of the Transfers under 11 U.S.C. § 550(a)(1).

17. The Trustee's investigation is ongoing and to the extent the Trustee discovers additional transfers made to Defendant within the 90-day period prior to the Petition Date, the Trustee will amend this complaint to include such transfers as part of this claim.

WHEREFORE, the Trustee prays for relief as set forth below.

PRAYER FOR RELIEF

The Trustee requests entry of judgment against Defendant as follows:

1. Avoiding the Transfers in the amount of \$12,682.00 under 11 U.S.C. § 547(b) and granting recovery for the value thereof under 11 U.S.C. § 550(a).
2. Awarding pre-judgment interest at the legal rate from the date of demand.
3. Awarding costs of suit incurred herein; and
4. For any other relief that the Court deems proper.

Dated: January 11, 2019

WENDEL, ROSEN, BLACK & DEAN LLP

By: /s/ Lisa Lenherr

Mark Bostick
Lisa Lenherr
Attorneys for Plaintiff
Michael G. Kasolas, Trustee